

A wide-angle photograph of an Antarctic landscape. In the background, a large, snow-covered mountain peak rises against a clear blue sky with a few wispy clouds. The foreground and middle ground consist of a vast, flat expanse of snow and ice, with some dark, rocky outcrops visible. The overall scene is bright and cold.

THE CHALLENGE OF ANTARCTIC GOVERNANCE IN THE EARLY 21ST CENTURY

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Outline of the Presentation

Political situation presented by Antarctica

- Positives

- Negatives

Challenges

- Antarctic Treaty System (ATS) regime

- Institutional architecture

- Participation / equity

- Activity levels increasing

 - Greater Southern Ocean (incl S Indian Ocean)

- Nationalism

Options

- Do nothing

- ATS collapse / manage globally

- Reinvigorated regional regime (ATS)

The Situation - 1

A Continent of 14 million square kilometres, surrounded by a Southern Ocean of 35 million square kilometres.

The Continent all beyond generally recognised national jurisdiction (but 7 claimants and 2 semi-claimants).

An ocean which is therefore “High Seas’ right up to the coast of Antarctica

A form of collective governance under the Antarctic Treaty System, whose roots go back 57 years.

A map of Antarctica centered on the South Pole, showing territorial claims by various countries. The map uses a polar projection and includes latitude and longitude lines. The claims are represented by colored sectors radiating from the South Pole:

- United Kingdom:** A blue sector in the upper left.
- Argentina:** A green sector in the upper left.
- Chile:** An orange sector in the upper left.
- Norway:** A red sector in the upper right.
- Australia:** A purple sector in the right.
- France:** A blue sector in the lower right.
- Australia:** A purple sector in the lower right.
- New Zealand:** A red sector in the lower right.

The map also shows the Southern Ocean, South America, and parts of Africa and Australia. A scale bar indicates 1000 km. The word "ANTARCTICA" is written across the continent, and "unclaimed" is written in the lower left sector.

The Situation - 2

Territorial claims in limbo (but not renounced), open access, scientific research as the dominant activity ashore and the organising principle for the ATS, and a light overall regulatory structure agreed by consensus.

3 industries: fishing, tourism and (emerging) biological prospecting. A fourth industry – mineral resource exploitation explicitly prohibited – but under an agreement that could be lifted after mid-century.



The Good News

- ① That the area has been managed peacefully and collegially over 57 years;
- ② That there is an institutional architecture available for negotiating Antarctic governance;
- ③ That 59 of the world's 193 UN Member States are Parties to one or more instruments of the ATS;
- ④ That the levels of activity are, by global standards, still low.



The Worrying News

- ① That the governance regime is 57 years old;
- ② That the institutional architecture is old and has not been further developed for 25 years;
- ③ That only just over 30% of the world's states are Parties;
- ④ That activity levels, and the variety of activities, are increasing in and around Antarctica.

The Challenge

Is our present governance system robust enough, and just enough to manage activity in the Antarctic in the 21st Century?

Is it the sort of arrangement that we would see as fit-for-purpose in governance terms in (say) 2020?



The Governance Regime is 57 Years Old

- 1959 Antarctic Treaty
- 1972 Convention for the Conservation of Antarctic Seals (CCAS)
- 1980 Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR)
- *1988 Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA)*
- 1991 Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol)

Institutional Architecture - 1

Continues to reflect what was termed the “Antarctic Problem” of the 1950s:

- Disputed territorial claims in the Antarctic Peninsula;
- General non-recognition of claims;
- The West’s need to contain these;
- Containment of the Cold War antipathies of US and Soviet blocs.

Are these historic factors necessarily pertinent today?

Institutional Architecture - 2

Privileges the 12 Original Signatories – retain Consultative Party status in perpetuity;

All later CPs do so only as long as they maintain activity levels – a sort of P5 situation.

Is this substantive?

Is this just and acceptable if it is?

ATS has stopped developing – can it any longer claim to be managing all activities in area?

Only 30% of States are ATS Parties

If: it is in the interest of all mankind that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord [Preamble, Antarctic Treaty], is 30% an adequate global representation?

If Antarctica is “Common Heritage” is 30% adequate

If anthropogenic climate change is transforming Antarctica – and therefore the entire planet – is 30% appropriate?

Doesn't everyone, and every state, on the planet have a quite vital interest in the future of Antarctica?

Activity Levels Increasing

Overall, the level and diversity of activity – and potential pressures on Antarctic values (peace, science, environment) presumably also increasing.

Activity within AT Area now likely has an annual economic value above US\$ 2 billion.

Resource activities potentially on and around the subantarctic islands.

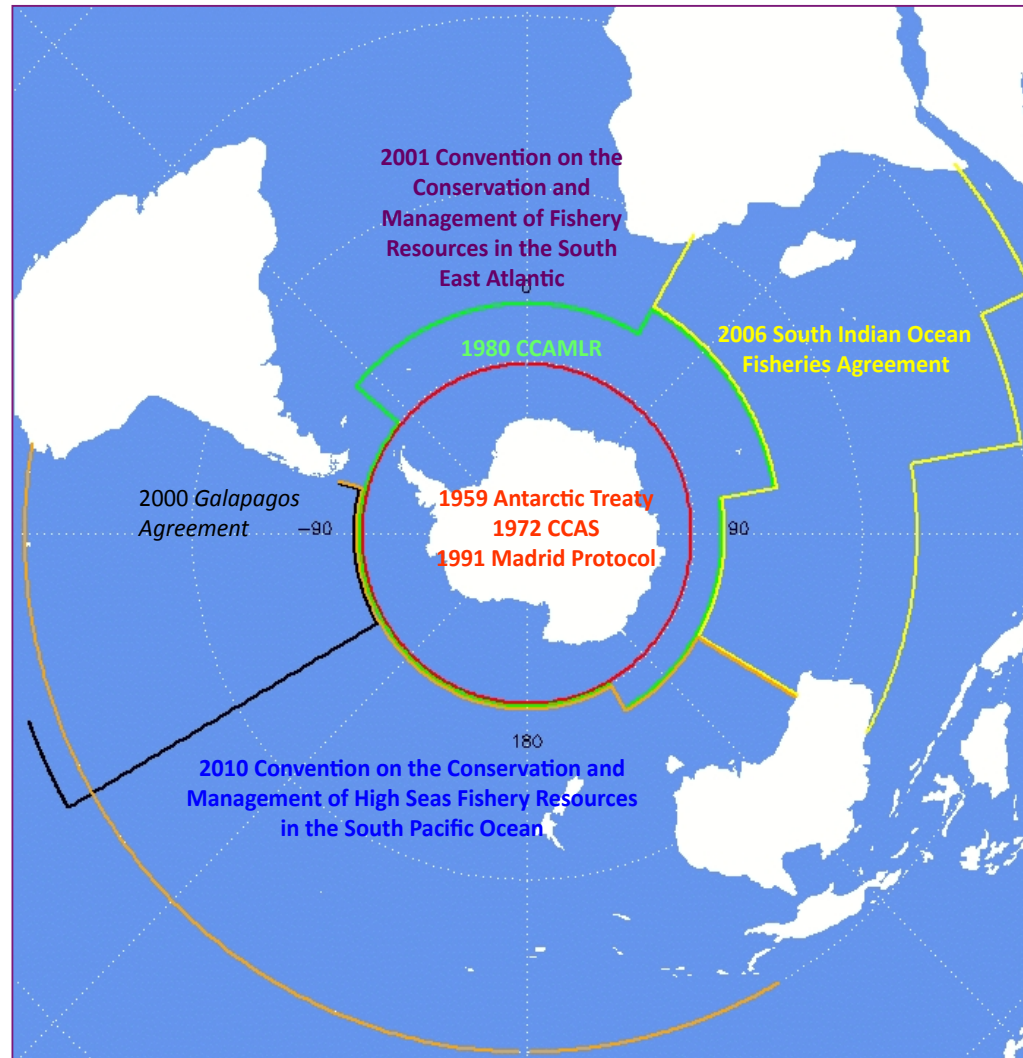
Major fisheries now underway or possible in a wide belt immediately north of the ATA – in “Greater Southern Ocean”.

Emerging Institutional Architecture in the Marine Environment of the South Polar Region

Global Instruments:

1982 UNCLOS &
associated instruments

1992 Convention on
Biological Diversity



Taxa-specific Instruments:

1946 International
Convention for the
Regulation of Whaling

1966 International
Convention for the
Conservation of Atlantic
Tunas

1993 Convention for the
Conservation of Southern
Blue Fin Tuna

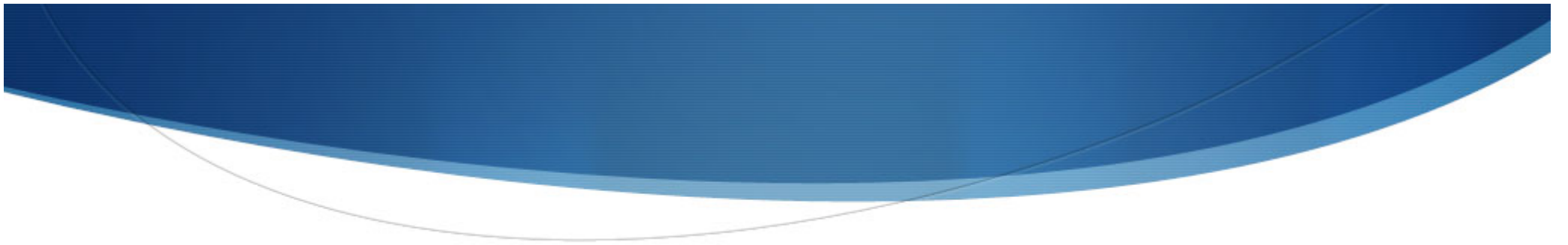
Nationalism

Western States suffering a crisis of confidence in Antarctica.

The response seems increasingly to be resistance to change, and a characterization of “new” players (most notably China, but by implication other states from East and South Asia – and of course “old” player Russia) as up to no good. Questioning of these states “real” interests.

Irony that there seems to be more suspicion about China than there was about the Soviet Union –in a regime crafted to minimise inter-state Cold-War tensions in Antarctica.

Nationalism across new and old players in Antarctica.



Options - 1

Do nothing – leave Antarctica to be governed by whatever mix of old and new arrangements arises.

- Problematical as the old ATS coverage both ages and reduces as a relative percentage of the governance regime.
- Global mechanisms may lack sensitivity or capability for a place as different as Antarctic.

Options - 3

Allow Antarctic regime to collapse (more likely a fading rather than a demolition) and manage Antarctic as part of integrated global system.

- Difficulties – as above
- And we don't do this anywhere else on the planet (would it even work?).
- Recall, we have no recognised national jurisdiction as we do elsewhere (and resolving that in favour of claimant states seems unlikely).

Options - 2

Reinvigorate the Antarctic regime – ATS or successor

- Even if revived regime picked up more active responsibilities, much would remain for global and regional instruments and institutions to do – but ATS would provide a coordinating mechanism.
- Requires advocacy within present ATS to begin (presently there is none – indeed resistance through fears of zero-sum-game for states' particular interests).
- Probably requires updating of ATS norms and better embedding in the present global system – needs to be attentive to the emerging global order and values.

Thank You

